

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

RICHARD P. by and for RACHEL P. and
DENISE L., by and for KRISTINA L.,
Plaintiffs,

v.

SCHOOL DISTRICT of the CITY OF ERIE,
Defendants

MOTION FOR ORDER TO QUASH OR MODIFY SUBPOENA

Robert Blakely, an employee of the Erie County Court of Common Pleas Office of Juvenile Probation (hereinafter “Juvenile Probation”), and Juvenile Probation move the Court to enter an order quashing the subpoena served upon Robert Blakely by the Plaintiffs on January 12, 2006, a copy of which is attached hereto as Exhibit “A,” or, in the alternative, enter an order quashing the subpoena in part to limit the testimony to be elicited from Robert Blakely so as not to require the production of records or to permit the eliciting of testimony revealing protected information, and in support thereof aver as follows:

1. Neither Robert Blakely nor Juvenile Probation is a party to this action.
2. The records sought by the subpoena are records of Juvenile Probation.
3. Accordingly, Juvenile Probation joins in this motion, even though no subpoena was served upon it.

4. Records of Juvenile Probation include confidential information requiring protection by Pennsylvania's Juvenile Act, 42 Pa.C.S.A. §6307, protecting the privacy interests of the victims and assailants in juvenile proceedings.

5. Therefore, the records and information sought by the subpoena are the subject of an April 8, 2004 Protective Order entered by the Honorable Sean J. McLaughlin upon consent of both the Plaintiffs and the Defendants in the above captioned matter. A copy of which is attached hereto as Exhibit "B."

6. Moreover, Judge McLaughlin placed a protective order on the record at the September 16, 2004 Hearing on the Plaintiff's Motions to Compel, limiting production to protect the privacy rights and interests of the assailants and all third parties. See Hearing On Motions To Compel Tr., Richard P., et al., v. School District of the City of Erie, et al., No. 03-390, September 16, 2004, attached hereto as Exhibit "C".

7. Counsel for Plaintiffs indicated at the September 16, 2004 Hearing that the only information that Plaintiffs were interested in was "information or statements by the assailants concerning the school district." Exhibit C at p.9.

8. Accordingly, the Court ordered "for every batch of documents that's being ordered to be produced, any personal identifying information relative to any third party should be redacted." Exhibit C at p. 6, lines 20-22.

9. Both parties and movants agreed to redact personal identifying information to identify individuals only by first name and last initial. Exhibit C at p. 14, lines 1-2.

10. The September 16, 2004 Protective Order further provides: "the only information that will be required to be produced, once again, with my caveat about the

redaction of personal identifying information, would be any information that might reflect or suggest, potentially lead to the discovery of relevant evidence, on the issue of the school district's notice of the propensity of that particular individual to have committed the conduct which forms the subject matter of this suit." Exhibit C at p.9, lines 11-18.

11. Nevertheless, Plaintiffs command that Mr. Blakely produce and permit inspection and copying of documents, in a non-redacted form, that were produced under the September 16, 2004 Protective Order in a redacted form. See Exhibit A, p.2.

12. Federal Rule of Civil Procedure 45(c)(3)(A)(iii) empowers the Court to quash or modify a subpoena if it requires the disclosure of protected matter.

Wherefore, Robert Blakely and the Erie County Court of Common Pleas Office of Juvenile Probation respectfully request the Court to quash the subpoena and issue an order that the testimony of Robert Blakely not be taken or, in the alternative, the subpoena be quashed in part and the testimony of Robert Blakely so limited so as not to require the production of documents or the eliciting of testimony touching upon the protected information.

Respectfully submitted,

s/ Heather L. Purcell
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**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

RICHARD P. by and for RACHEL P. and	:	
DENISE L., by and for KRISTINA L.,	:	Civil Action No. 03-390 Erie
Plaintiffs,	:	
	:	
v.	:	Electronically Filed
	:	
SCHOOL DISTRICT of the CITY OF ERIE,	:	
Defendants	:	
	:	

CERTIFICATE OF SERVICE

I, Heather L. Purcell, Esq., hereby certify that on January 17, 2006, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following:

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s/ Heather L. Purcell
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